

**WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)**  
**Act 317 of 1969**

CHAPTER 5  
FUNDS

**418.501 Self-insurers' security fund, second injury fund; silicosis, dust disease, and logging industry compensation fund; uninsured employer's security fund; creation; "employment in logging industry" defined.**

Sec. 501. (1) A self-insurers' security fund and a second injury fund are created.

(2) A silicosis, dust disease, and logging industry compensation fund is created.

(3) An uninsured employer's security fund is created. The fund shall succeed to all of the assets, if any, of the former uninsured employer's security account of the workplace health and safety fund created in former section 723.

(4) As used in this chapter, "employment in the logging industry" means employment in the logging industry as described in the section in the workmen's compensation and employers liability insurance manual, entitled, "logging or lumbering and drivers code no. 2702," which is filed with and approved by the commissioner of insurance.

**History:** 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1971, Act 149, Imd. Eff. Nov. 16, 1971;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1982, Act 32, Imd. Eff. Mar. 10, 1982;—Am. 1993, Act 198, Eff. Dec. 28, 1994.

**Compiler's note:** Section 3 of Act 198 of 1993 provides as follows:

"Section 3. (1) Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act.

"(2) Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act."

For transfer of powers and duties of the board of trustees of the funds established in MCL 418.501 relating to management activities from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

**Popular name:** Act 317

**418.502 "Insolvent private self-insured employer" defined.**

Sec. 502. For the purposes of this act, an insolvent private self-insured employer means either an employer who files for relief under the bankruptcy act or an employer against whom bankruptcy proceedings are filed or an employer for whom a receiver is appointed in a court of this state.

**History:** Add. 1971, Act 149, Imd. Eff. Nov. 16, 1971.

**Popular name:** Act 317

**418.511 Board of trustees; appointment, term, expenses.**

Sec. 511. The funds shall be managed by a board of 3 trustees, 1 of whom shall be the director, the remaining 2 of whom shall be appointed by the governor with the advice and consent of the senate and so selected by the governor that 1 trustee will represent the insurance industry and the remaining trustee shall represent those employers who have been authorized to act as self-insurers. The director shall be a permanent trustee but the other 2 trustees shall be appointed for terms of 4 years and shall serve until their successors are appointed and qualified. The present trustees of the silicosis and dust disease fund shall continue to serve for the balance of their terms and shall exercise the powers granted by this chapter. The trustees shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses during the performance of their duties.

**History:** 1969, Act 317, Eff. Dec. 31, 1969.

**Popular name:** Act 317

**418.515 Board of trustees; powers and duties; funds administrator; office space; personnel; expenses; legal advice and representation.**

Sec. 515. (1) The trustees shall have general authority to carry out the purposes of this chapter, shall make such rules as they deem necessary, shall maintain records and institute systems and procedures or take any other administrative action as they deem necessary to carry out the purposes of this chapter.

(2) The trustees may appoint an administrative officer to be referred to as the funds administrator who shall perform duties as shall be designated or delegated by the trustees.

(3) The bureau shall provide the trustees of the funds with suitable office space and clerical assistance. All

other expenses authorized by the trustees for the proper administration of the funds, including but not limited to, the salary and expenses of the funds administrator and the investigation, determination and defense of claims against the funds shall be borne ratably by and paid from the assets of the funds. The trustees may secure legal advice and be represented by the attorney general or any assistant designated by him in any matter involving the affairs of the funds. The self-insurers' security fund shall be represented by an assistant attorney general who is not representing the second injury fund or the silicosis and dust disease fund. The cost of such services and expenses in connection therewith shall be borne ratably by and paid from the funds. All expenses so incurred and charged to the funds shall be accounted for on a fiscal year basis.

**History:** 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1971, Act 149, Imd. Eff. Nov. 16, 1971.

**Popular name:** Act 317

#### **418.521 Second injury fund; payments reimbursable.**

Sec. 521. (1) If an employee has a permanent disability in the form of the loss of a hand, arm, foot, leg or eye and subsequently has an injury arising out of and in the course of his employment which results in another permanent disability in the form of the loss of a hand, arm, foot, leg or eye, at the conclusion of payments made for the second permanent disability he shall be conclusively presumed to be totally and permanently disabled and paid compensation for total and permanent disability after subtracting the number of weeks of compensation received by the employee for both such losses. The payment of compensation under this section shall be made by the second injury fund, and shall begin at the conclusion of the payments for the second permanent disability.

(2) Any permanently and totally disabled person as defined in this act, if such total and permanent disability arose out of and in the course of his employment, who, on and after June 25, 1955, is entitled to receive payments of workmen's compensation in amounts per week of less than is presently provided in the workmen's compensation schedule of benefits for permanent and total disability, and for a lesser number of weeks than the duration of such permanent and total disability, after the effective date of any amendatory act by which his disability is defined as permanent and total disability, or by which the weekly benefits for permanent and total disability are increased, shall receive weekly from the carrier on behalf of the second injury fund differential benefits equal to the difference between what he is now or shall hereafter be entitled to receive from his employer under the provisions of this act as the same was in effect at the time of his injury, and the amounts now provided for his permanent and total disability by this or any other amendatory act, with appropriate application of the provisions of sections 351 to 359. Such payments shall continue after the period for which the person is otherwise entitled to compensation under this act for the duration of the permanent and total disability. Any payments so made by a carrier pursuant to this section shall be reimbursed to the carrier by the second injury fund as provided in this chapter.

(3) Any person who prior to July 1, 1968, has been receiving or is entitled to receive benefits from the second injury fund pursuant to any prior provisions of the workmen's compensation law shall continue to receive or be entitled to receive such benefits from such fund which shall be paid directly to him from such fund unless such payments are paid in accordance with an agreement made pursuant to section 541.

(4) If any carrier is unable to make the payments on behalf of the fund as provided for herein, the trustees of the second injury fund may make the payments directly to the permanently and totally disabled employee.

(5) The obligation imposed by this section on a carrier to make payments on behalf of the second injury fund shall not impose an independent liability on the carrier nor obligate the carrier to make payments on behalf of the fund if the carrier does not have a separate obligation to make payments of compensation simultaneously to the permanently and totally disabled employee.

**History:** 1969, Act 317, Eff. Dec. 31, 1969.

**Popular name:** Act 317

#### **418.531 Disability or death from silicosis, dust disease, employment in logging industry, or exposure to polybrominated biphenyl; reimbursement of carrier; limitation; right of funds to commence action and obtain recovery.**

Sec. 531. (1) In each case in which a carrier including a self-insurer has paid, or causes to be paid, compensation for disability or death from silicosis or other dust disease, or for disability or death arising out of and in the course of employment in the logging industry, to the employee, the carrier including a self-insurer shall be reimbursed from the silicosis, dust disease, and logging industry compensation fund for all sums paid in excess of \$12,500.00 for personal injury dates before July 1, 1985, and for all compensation paid in excess of \$25,000.00 or 104 weeks of weekly compensation, whichever is greater, for personal injury dates after June 30, 1985, excluding payments made pursuant to sections 315, 319, 345, and 801(2), (5), and (6) which have been paid by the carrier including a self-insurer as a portion of its liability.

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(2) A benefit paid as a result of disability or death caused, contributed to, or aggravated, by previous exposure to polybrominated biphenyl shall entitle a carrier including a self-insurer to reimbursement from the silicosis, dust disease, and logging industry compensation fund pursuant to this act, if the exposure occurred before July 24, 1979, and arose out of and in the course of employment by an employer located in this state engaged in the manufacture of polybrominated biphenyl. To be reimbursable, the disability or death shall have occurred or become known after July 24, 1979.

(3) All of the funds under this chapter shall have a right to commence an action and obtain recovery under section 827.

**History:** 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1979, Act 62, Imd. Eff. July 24, 1979;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1982, Act 32, Imd. Eff. Mar. 10, 1982;—Am. 1984, Act 98, Imd. Eff. May 8, 1984;—Am. 1994, Act 97, Imd. Eff. Apr. 13, 1994.

**Popular name:** Act 317

#### **418.532 Repealed. 1996, Act 357, Eff. June 1, 2000.**

**Compiler's note:** The repealed section pertained to rights and liabilities of uninsured employer.

**Popular name:** Act 317

#### **418.535 Disability caused by combination of causes; apportionment; reimbursement of employer.**

Sec. 535. If an employee's disability is caused by a combination of silicosis or other dust disease, or arose in the course of employment in the logging industry, and other compensable causes, a worker's compensation magistrate shall apportion the amount of disability between that due to silicosis or other dust disease, or to employment in the logging industry, and other compensable causes. The trustees of the silicosis, dust disease, and logging industry compensation fund shall reimburse the employer liable for compensation for that portion of compensation paid in excess of \$12,500.00 for personal injury dates before July 1, 1985, and for all compensation paid in excess of \$25,000.00 or 104 weeks of weekly compensation, whichever is greater, for personal injury dates after June 30, 1985, that the silicosis or other dust disease disability, or disability arising out of and in the course of employment in the logging industry, bears to the total disability.

**History:** 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1984, Act 99, Imd. Eff. May 8, 1984;—Am. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1994, Act 271, Imd. Eff. July 11, 1994.

**Compiler's note:** For legislative intent as to severability, see Compiler's note to MCL 418.213.

**Popular name:** Act 317

#### **418.537 Payments from self-insurers' security fund.**

Sec. 537. (1) The trustees may authorize payments from the self-insurers' security fund upon request to the fund's administrator by a disabled employee or a dependent of the disabled employee as defined in section 331 who is receiving or is entitled to receive worker's compensation benefits from a private self-insurer who becomes insolvent after November 16, 1971, and is unable to continue the payments.

(2) If an employee becomes disabled or dies because of a compensable injury or disease while in the employ of a private self-insurer who has become insolvent and who is unable to make compensation payments, the employee or a dependent of the employee as defined in section 331 may seek payment from the self-insurers' security fund either by request through the fund's administrator or by filing a petition for hearing with the bureau.

(3) Payments shall not be made from the self-insurers' security fund to an employee or a dependent of the employee as defined in section 331 for any period of disability that is before the date of the request to the administrator or the date of the petition for hearing before the bureau.

(4) If there is an apportionment as provided in section 435, the trustees may reimburse subsequent employers.

**History:** Add. 1971, Act 149, Imd. Eff. Nov. 16, 1971;—Am. 1972, Act 337, Imd. Eff. Jan. 4, 1973;—Am. 1977, Act 9, Imd. Eff. Apr. 6, 1977;—Am. 1992, Act 269, Imd. Eff. Dec. 15, 1992.

**Compiler's note:** Section 2 of Act 9 of 1977 provides: "This amendatory act shall be effective for all payments authorized pursuant to section 537(1), (2) and (3) after November 15, 1971."

**Popular name:** Act 317

#### **418.541 Payments from funds; notice of claim for reimbursement; agreements.**

Sec. 541. (1) All payments from the funds shall be determined by the trustees and made upon an order signed by a trustee. If a dispute arises between the trustees and a carrier as to any determination by the trustees or the obligation of any carrier to make payments on behalf of the second injury fund, the dispute shall be deemed to be a controversy concerning compensation and shall be determined in accordance with this

act.

(2) In all cases in which the carrier shall be entitled to be reimbursed, notice of claim for reimbursement shall be filed with the trustees within 1 year from the date on which the right to reimbursement first accrues. After the carrier has established a right to reimbursement, payment shall be made promptly on a proper showing periodically every 6 months.

(3) The trustees may enter into agreements with carriers whereby the payment of benefits to persons permanently and totally disabled from the second injury fund which heretofore have been made directly from the fund may be made by carriers who are paying workmen's compensation benefits to such persons and the carriers shall be reimbursed periodically at 6-month intervals from the fund for such payments.

**History:** 1969, Act 317, Eff. Dec. 31, 1969.

**Popular name:** Act 317

#### **418.545 Compromising liability of silicosis, dust disease, and logging industry compensation fund; redemption of liability.**

Sec. 545. The trustees may compromise the liability of the silicosis, dust disease, and logging industry compensation fund by entering into a redemption of liability directly with the employee if, in the judgment of the trustees, it is in the employee's best interest to do so. Redemption of liability shall terminate the liability of the fund. A redemption of liability by a carrier including a self-insurer in which the fund is not a party for compensation paid for disability or death from silicosis or other dust disease or for disability or death arising out of and in the course of employment in the logging industry, made with the employee before the actual payment by the carrier including a self-insurer of \$12,500.00 in compensation benefits for personal injury dates before July 1, 1985, or before the actual payment by the carrier of \$25,000.00 or 104 weeks of benefits, whichever is greater, for personal injury dates after June 30, 1985, shall eliminate the liability of the silicosis, dust disease, and logging industry compensation fund.

**History:** 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1984, Act 97, Imd. Eff. May 8, 1984;—Am. 1996, Act 357, Imd. Eff. July 1, 1996.

**Popular name:** Act 317

#### **418.551 Assessments; notice; payment; assessments as elements of loss in establishing rates; continuation of liability; certification of receipts; delinquencies; disposition of money; investments; disposition of earnings; reports and accounting.**

Sec. 551. (1) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the second injury fund during the preceding calendar year, less the amount of net assets in excess of \$200,000.00 in that fund as of December 31 of the preceding calendar year.

(2) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the silicosis, dust disease, and logging industry compensation fund during the preceding calendar year, less the amount of net assets in excess of \$200,000.00 in that fund as of December 31 of the preceding calendar year.

(3) The portion of the total assessment amounts under subsections (1) and (2) allocated to self-insurers shall be equal to a percentage determined as follows: The total paid losses of all self-insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessment amounts under subsections (1) and (2) allocated to insurers shall be equal to a percentage determined as follows: The total paid losses of all insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessments allocated to self-insurers that shall be collected from each self-insurer shall be equal to a percentage determined as follows: The total paid losses of each self-insurer divided by the total paid losses of all self-insurers during the preceding calendar year. The portion of the total assessment allocated to insurers that shall be collected from each insurer shall be equal to a percentage determined as follows: The amount of total direct premiums written as reported by each insurer divided by the amount of total direct premiums written as reported by all insurers during the preceding calendar year. As used in this subsection:

(a) "Direct premiums written" means standard written Michigan workers' compensation premium prior to the application of deductible credits, as reported to the designated advisory organization, through policy declarations and unit statistical reports compiled pursuant to the authority in section 2407 of the insurance code of 1956, 1956 PA 218, MCL 500.2407. For the purposes of determining assessments under this section, the reported data for the most recent full calendar year on file with the designated advisory organization shall be used.

(b) "Total paid losses" means total compensation benefits paid under this act, exclusive of payments made

pursuant to sections 315, 319, and 345.

(4) The director, upon the advice of the trustee representing the self-insurers, may make additional assessments upon private self-insurers as the trustee considers necessary to keep the self-insurers' security fund solvent. The assessment shall not exceed 3% in any calendar year exclusive of payments made pursuant to sections 315, 319, and 345.

(5) Notice of the assessments shall be sent by the director by first class mail to each carrier. Payment of assessments shall be made so as to be received in the Lansing office of the bureau on or before a date specified uniformly in the notice, but not less than 90 days after the date of mailing.

(6) All assessments constitute elements of loss for the purpose of establishing rates for worker's compensation insurance.

(7) An employer who has stopped being a self-insurer shall continue to be liable for a second injury fund; silicosis, dust disease, and logging industry compensation fund; or self-insurers' security fund assessment on account of any compensation benefits, exclusive of payments made pursuant to sections 315, 319, and 345, paid by the employer during the previous calendar year.

(8) The director shall certify to the trustees the collection and receipt of all money from assessments, noting any delinquencies. The trustees shall immediately notify delinquent carriers, including private self-insurers, of their delinquency in writing by certified mail, return receipt requested. The trustees shall take action as in their judgment is proper to effect collection of any delinquent assessment. All money received from assessments under this section shall be turned over to the state treasurer who shall be the custodian of the self-insurers' security fund; the second injury fund; and the silicosis, dust disease, and logging industry compensation fund. The treasurer may make those investments as in the treasurer's judgment are in the best interest of the funds. The earnings from the investment of the money from the funds shall be credited to the funds. The state treasurer, at the end of each fiscal year, shall determine what amount represents a pro rata earnings share due to each fund, shall credit the pro rata earning share to each fund, and shall notify the trustee of the amount credited and the balance of the respective fund as of September 30. The trustees shall make separate annual reports and accountings for each fund, which reports shall be included in the annual report of the bureau.

**History:** 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1971, Act 149, Imd. Eff. Nov. 16, 1971;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1982, Act 32, Imd. Eff. Mar. 10, 1982;—Am. 1985, Act 73, Imd. Eff. July 1, 1985;—Am. 1992, Act 269, Imd. Eff. Dec. 15, 1992;—Am. 2002, Act 25, Imd. Eff. Mar. 6, 2002.

**Popular name:** Act 317

#### **418.552 Insufficiency of funds; borrowing; repayment; restriction; special assessment.**

Sec. 552. (1) If, before the end of any calendar year, the annual assessments, after having been substantially collected, have not provided funds sufficient to either the second injury fund or the silicosis, dust disease, and logging industry compensation fund to meet the known obligations of those funds as they mature before the next available assessment date, the trustees, if the trustees find it to be reasonably required, may borrow on behalf of 1 fund from the other fund a sum or sums as may be required.

(2) Any sum or sums borrowed on behalf of 1 fund from the other fund shall be included in the next assessment of the borrowing fund and shall be repaid after the assessment has been substantially collected and the fund from which the sum or sums were borrowed during the period before repayment shall record the sum or sums as an asset.

(3) The trustees shall not borrow in the manner described in this section if it would impair the ability of either fund to meet its known obligations as the obligations mature before the next available assessment date.

(4) If the trustees find that it is reasonably required that they borrow on behalf of 1 fund from the other, but that the borrowing will impair the ability of the fund to meet the fund's known obligations as the obligations mature before the next assessment date, then, and in that event only, the trustees may order the director to levy a special assessment on each carrier in a sum sufficient to permit the fund making the assessment to meet the fund's known obligations as the obligations mature before the next available assessment date. The assessment shall be levied on each carrier in the same proportion as used in the preceding annual assessment. Payment of the special assessment shall be paid by each carrier within 45 days after the date of the mailing of the notice of special assessment.

**History:** Add. 1970, Act 3, Imd. Eff. Feb. 19, 1970;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1982, Act 32, Imd. Eff. Mar. 10, 1982.

**Popular name:** Act 317

#### **418.552a Expired. 1980, Act 357, Eff. Jan. 1, 1986.**

**Compiler's note:** The expired section pertained to employers required to participate in safety education and training programs or to  
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utilize department of labor services.

**Popular name:** Act 317

**418.552b Silicosis, dust disease, and logging industry compensation fund; review; report.**

Sec. 552b. The silicosis, dust disease, and logging industry compensation fund created in section 501 shall be reviewed by the department of labor and reported upon to the legislature not later than January 1, 1985.

**History:** Add. 1980, Act 357, Eff. Jan. 1, 1982.

**Popular name:** Act 317

**418.553 Self-insurers' security fund; subrogation.**

Sec. 553. The self-insurers' security fund after paying an injured employee shall have all the rights of the injured employee as a creditor of the insolvent employer to the extent of benefits it paid. The trustees of the fund shall have the right and obligation to obtain reimbursement to the fund from an insolvent employer for any funds paid out as benefits to the employees of the insolvent employer, including expenses pertinent to payments or recovery thereof.

**History:** Add. 1971, Act 149, Imd. Eff. Nov. 16, 1971.

**Popular name:** Act 317

**418.555 Reimbursement provisions; delinquent self-insurers.**

Sec. 555. The reimbursement provisions of the chapter shall not be available to any self-insurer who is delinquent in the payment of any assessment authorized in this chapter.

**History:** 1969, Act 317, Eff. Dec. 31, 1969.

**Popular name:** Act 317

**418.561 Application for self-insurance; agreement as to insolvency.**

Sec. 561. The application for self-insurance by a private employer shall contain an agreement that in case of insolvency the employer shall make his records available to an agent of the self-insurers' security fund to help defend the fund as well as disclosing his inability to pay the injured employee.

**History:** Add. 1971, Act 149, Imd. Eff. Nov. 16, 1971.

**Popular name:** Act 317